

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

REGINA WILSON,

Plaintiff,

vs.

Civil Action 2:06-CV-805
Judge Frost
Magistrate Judge King

RIVERSIDE METHODIST MEDICAL
CENTER, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff, an Ohio resident who is proceeding *pro se*, seeks to bring a civil action against the defendant hospital entities without prepayment of fees or costs. 28 U.S.C. §1915(a). Plaintiff's application for leave to proceed *in forma pauperis* is **GRANTED**. All judicial officers shall render services in this action as if the costs had been prepaid.

The Court has performed the initial screen of the complaint required by 28 U.S.C. §1915(e), however, and concludes that it lacks jurisdiction over the claims asserted in the action. Accordingly, it is recommended that the complaint be dismissed.

Although plaintiff refers in passing to a number of federal statutes governing the federal Medicaid and Social Security programs, her claims are based on her dissatisfaction with the medical care provided her by the defendant hospital entities. Indeed, plaintiff refers to "medical malpractice" on a number of occasions throughout the complaint.

A medical malpractice claim is based on state law, not federal law. This Court may entertain a claim based on state law only if the parties are of diverse citizenship. See 28 U.S.C. §1332. It is clear from the complaint that all parties are residents of the State of Ohio. Diversity jurisdiction is therefore lacking.

It is therefore **RECOMMENDED** that this action be dismissed for lack of jurisdiction.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within ten (10) days, file and serve on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within ten (10) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Clerk shall provide a copy of this *Report and Recommendation* to plaintiff and a copy of the complaint and this *Report and Recommendation* to each of the named defendants.

September 27, 2006

s/Norah McCann King
Norah M°Cann King
United States Magistrate Judge